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March 23, 2023

**Hines v Lanigan et al**

**Case Number: 17-cv-02864-NLH-MJS**

Dear Magistrate-Judge Skahill,

I hope this letter finds you well. This letter addresses the three items ordered to be addressed in ECF #117.

**1. Plaintiff's Proposed Fourth Amended Complaint.**

Attached is Plaintiff's proposed Fourth Amended Complaint ("FAC") which was worked on jointly by undersigned counsel and Mr. Hines. It only includes claims that are already in the Third Amended Complaint ("TAC"), ECF #47, and it only names defendants who are currently being represented by Counsel. The ten counts in the TAC have been simplified into four distinct counts and are more easily discernible than in the TAC.

Undersigned counsel sent a copy of the attached proposed FAC to Mr. Freeman on March 23, 2023, and then discussed it via telephone. Mr. Freeman indicated he would review it and would be prepared to state his position to the Court during our upcoming scheduled conference call on March 30, 2023.

Mr. Freeman indicated that one of his primary concerns would be to ensure that he is not waiving his clients' right to challenge the proposed FAC with a 12(b)(6) motion. However, Plaintiff's position is that these claims are already all pending in the operative TAC; this new filing would simply clarify the already pending claims, and actually abandon some of them as well.

The proposed FAC contains four causes of action:

1. ADA claim
2. Deliberate indifference claims based on living conditions
3. Deliberate indifference claim for an alleged sexual assault
4. First Amendment Retaliation claim



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The defendants named in the proposed FAC are all already named in the TAC and are already being represented; they are:

- a. Gary Lanigan – Commissioner
- b. Marcus Hicks or “Marcus O. Hocks” in the TAC
- c. E. Marin or “SCO Marvin” in the TAC
- d. Willie Bonds or “Ms. Bonds” in the TAC
- e. SCO Waters
- f. CO Perry
- g. Sgt. J. Vallie
- h. CO Petit
- i. CO T. Jackson
- j. CO Moratelli
- k. CO L. Smith
- l. CO Goffred
- m. CO McNear
- n. Sgt. Horsey
- o. New Jersey Dept of Corrections – for ADA claims only

Further, the proposed FAC clearly states what each defendant allegedly did to warrant being named as a defendant.

**2. Date for Plaintiff’s deposition:**

The parties are talking and will provide a date to the Court on March 30, 2023.

**3. Settlement discussions.**

Undersigned counsel conveyed a demand to Mr. Freeman on March 23, 2023. However, Plaintiff understands that the defense will not be able to meaningfully discuss resolution until after having had an opportunity to depose Plaintiff.

Respectfully,

/s/ Solomon M. Radner  
Solomon M. Radner